

Summary

The Department of Education is proposing to amend a provision of N.J.A.C. 6A:26, which addresses local support of school facilities projects. Under the current requirement at N.J.A.C. 6A:26-3.7(j), any non-Abbott school district included in district factor group A or B may seek 100 percent State support for a school facilities project if the school district is having difficulty financing the local share. In order for the Commissioner of Education to recommend to the Legislature that a school district receive 100 percent State share of the final eligible costs of a project, a school district must demonstrate fiscal hardship by satisfying two conditions, in addition to providing documentation of two failed referenda that did not include excess costs. These conditions are 1) the T & E budget equalized tax rate of the district is at least 130 percent of the State average and 2) the equalized municipal tax rate is above the State average.

The Department has concluded that there is a need to provide school districts that are struggling financially more flexibility for demonstrating fiscal hardship. Specifically, the proposed amendment at N.J.A.C. 6A:26-3.7(j) would require a school district to meet one of the criteria of fiscal hardship, rather than both. The school district would then be required to provide detailed documentation to make its case of fiscal hardship. By expanding the opportunities for school districts to make their particular case, the Department is providing for more thorough judgments about fiscal hardship. This amendment will further ensure that the educational facilities in the State are safe, healthy, and educationally adequate to support the delivery of a thorough and efficient education to which all students are entitled, as defined by the core curriculum standards.

Since school facilities that are safe, healthy, and conducive to learning are integral to ensuring a thorough and efficient education, the proposed amendment supports the mission of the New Jersey State Board of Education, in collaboration with the Department of Education, to establish policy and leadership in the development of exceptional learning opportunities for New Jersey's public school students for the purpose of enabling them to obtain a superior education. The proposed amendment supports the four goals (that is, assessment, exemplary educational practices, literacy and teacher preparation and professional development) in the Strategic Plan for Improvement in Public Education in the State of New Jersey. The proposed amendment further provides for school facilities necessary to optimize academic excellence and prepare New Jersey's students to be successful contributors to New Jersey, the nation and the world.

As the Department has provided a 60-day comment period in this notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5. The following summary provides a brief overview of the proposed amendment:

Subchapter 3. Capital Project Review

N.J.A.C. 6A:26-3.7 Local support of school facilities projects

The Department is proposing to amend N.J.A.C. 6A:26-3.7(j) to allow a non-Abbott district included in district factor group A or B, which is applying to the Commissioner for 100

percent State share of final eligible costs of a school facilities project, to demonstrate fiscal hardship by either having a T & E budget equalized tax rate of at least 130 percent of the State average or having an equalized municipal tax rate above the State average. Currently, a school district must satisfy both criteria.

Social Impact

The proposed amendment will apply to non-Abbott New Jersey public school districts that are included in district factor group A or B.

School districts having difficulty providing the local share of a school facilities project will benefit from their district having a greater opportunity to receive 100 percent State share. As a consequence, students would benefit from the construction of the school facilities project.

Economic Impact

The proposed amendment will have a positive impact on school districts having difficulty funding the local share of school facilities projects. School districts with fiscal hardship will be encouraged to undertake school facilities projects they could not otherwise afford and may have previously deferred by providing them a greater opportunity to demonstrate the need for 100 percent State support. If the Legislature concurs with the Commissioner on a request for 100 percent State share for a school facilities project, the State share for a school facilities project may increase

from 40 percent to 100 percent. The actual State share varies based on the school district's adjusted district aid percentage. The economic impact on the State, to the extent that the Legislature concurs with the Commissioner's request for 100 percent State share for a school facilities project, will be realized by the source of the State share, the school construction fund, which is administered by the New Jersey Schools Construction Corporation and statutorily capped by the Educational Facilities Construction and Financing Act.

Federal Standards Statement

The proposed amendment will not be inconsistent with or exceed any Federal requirements or standards as there are no Federal requirements or standards relating to this amendment.

Jobs Impact

The proposed amendment may result in the generation of jobs for design professionals and in the construction industry. In addition, the proposed amendment may result in the construction of new classrooms that may allow school districts to hire additional teachers. Additional State support in these school districts will also support the achievement of the core curriculum content standards by students in the school district. These students will be better equipped to find employment.

Agriculture Industry Impact

The proposed amendment will have no impact on the agriculture industry.

Regulatory Flexibility Statement

The proposed amendment does not impose recording, recordkeeping, or other compliance requirements on small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendment applies solely to public schools.

Smart Growth Impact

The proposed amendment will support the achievement of smart growth and the implementation of the State Development and Redevelopment Plan by providing a greater opportunity for struggling communities to construct necessary school facilities. In the case of a school facilities project involving land acquisition, existing N.J.A.C. 6A:26-7.1(b)2ii requires either a determination that the proposed use of the land is consistent with the goals and strategies of the State Development and Redevelopment Plan or a demonstration that no alternative sites are available if the proposed use of the land is inconsistent with the goals and strategies of the State Development and Redevelopment Plan.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

6A:26-3.7 Local support of school facilities projects

(a) – (i) (No change.)

(j) Any non-Abbott district included in district factor group A or B as of July 18, 2000 may apply to the Commissioner for 100 percent State share of final eligible costs of a school facilities project in the event the district is having difficulty financing the local share or the total costs of a school facilities project receiving State debt service aid. In order to receive a recommendation for 100 percent State share of final eligible costs from the Commissioner, a district shall submit documentation demonstrating that:

1. It sought approval of a school facilities project that did not have excess costs, and failed to receive such approval, and, prior to that failed appeal, sought and failed to receive approval of the same school facilities project, with or without excess costs and:

i. The T & E budget equalized tax rate of the district is at least 130 percent of the State average; [and] or

ii. The equalized municipal tax rate is above the State average; and

2. The school facilities project is necessary for the provision of a thorough and

efficient system of education in the district [;] .

(k) – (m) (No change.)